

**Remarks**

Entry of the amendments, reconsideration of the application, as amended, and allowance of all pending claims are respectfully requested. Claims 1-102 are now pending.

Claim amendments are presented herewith in accordance with the Notice entitled “Amendments in a Revised Format Now Permitted” and published in the Official Gazette on February 25, 2003. Support for the above-referenced claim amendments can be found throughout the application as filed, and in particular at page 7, lines 5-6. Additionally, support for the subject matter of new claim 102 is also found throughout the application as filed. For example, reference applicants’ specification at page 4, lines 10-14. No new matter is believed added to the application by any amendment presented.

In the Office Action, claims 1-101 were initially rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes et al. (U.S. Patent No. 5,970,475; hereinafter, “Barnes”) in view of Meltzer et al. (U.S. Patent No. 6,125,391; hereinafter, “Meltzer”), and further in view of Takriti (U.S. Patent No. 6,021,402). Applicants respectfully, but most strenuously, traverse this rejection to any extent deemed applicable to the claims presented herewith.

An “obviousness” determination requires an evaluation of whether the prior art taken as a whole would suggest the claimed invention taken as a whole to one of ordinary skill in the art. In evaluating claimed subject matter as a whole, the Federal Circuit has expressly mandated that functional claim language be considered in evaluating a claim relative to the prior art. Applicants respectfully submit that the application of these standards to the independent claims presented herewith leads to the conclusion that the recited subject matter would not have been obvious to one of ordinary skill in the art based on the applied patents.

Applicants recite a technique for facilitating the exchange of commodities (e.g., claim 1, as amended herein) that includes utilizing a public business trading hub in the exchange of one or more commodities, wherein a plurality of entities is associated with the exchange. This

technique further includes performing one or more selected business functions associated with the exchange of the one or more commodities via an automated trusted agent.

In another aspect of applicants' invention (e.g., claim 24), a technique for facilitating the exchange of commodities is recited to include requesting by a first entity to obtain one or more commodities of a product, the one or more commodities to be obtained from one or more second entities via a public business trading hub. This technique further includes using an automated trusted agent to interface between the first entity and the one or more second entities, wherein one or more aspects associated with obtaining the one or more commodities are controlled by the trusted agent.

Applicants' above-summarized invention thus includes, in an exchange of one or more commodities, employing a public business trading hub (i.e., a trading hub that is both public and business-related). Applicants respectfully submit that this feature of the claimed invention is not taught, suggested or implied by Barnes, Meltzer or Takriti, alone or in combination, let alone applicants' recited employing of an automated trusted agent to perform one or more selected business functions associated with the exchange of a commodity using such a public business trading hub.

Barnes discloses an electronic procurement system that enables a purchasing organization to electronically transact for the purchase and supply of goods/services. The major hardware/software components of the system are the purchasing organization, suppliers and bank/administration (see Abstract). Moreover, the procurement system is internal to the purchasing organization, restricting access to only authorized employees of the organization (see Col. 3, lines 16-19). This system is very different from the public business trading hub recited in the claims herewith. A public business trading hub (i.e., public hub or trading hub) is well-known in the art to mean an open, publicly available trading exchange characterized by many suppliers and many customers communicating via a centralized "hub," wherein business information associated with exchanges is aggregated and publicly available. In contrast, the procurement system in Barnes restricts its access to authorized individuals and thus, is not

publicly available (i.e., not a public business trading hub, as recited by applicants' invention in claims presented herewith).

Further, the procurement system in Barnes allows a single purchasing organization to make catalog purchases from multiple suppliers (i.e., a one-to-many relationship) (see FIG. 4; Col. 6, lines 13-16; Col. 8, line 15). If a second purchasing organization in Barnes establishes a similar electronic commerce relationship with the suppliers, the second procurement system does not interact with the previously established system (Col. 3, lines 31-38). Thus, additional systems in Barnes are also characterized by the one-to-many relationship between purchaser and suppliers. This relationship is different from the public business trading hub recited in the present invention. As noted above, the public business trading hub provides an open exchange with a many-to-many relationship between multiple purchasers and multiple suppliers.

Still further, Barnes describes direct connectivity between the purchasing organization and the suppliers. That is, the purchaser and suppliers in Barnes are connected without any intermediary agents (see FIG. 4 thereof; Col. 8, lines 14-16). In contrast, as described above, the public business trading hub recited in applicants' invention functions as a hub, which as noted above, is well-known to be positioned as a centralized point at which business information from purchasers and suppliers is aggregated and disseminated (see the distributed fulfillment model in FIG. 2 of the present invention).

The Office Action cited the Internet depicted in FIGs. 1 & 6B of Barnes as being utilized to facilitate the exchange of goods/services. Although the system described in Barnes does use the Internet, it is explicitly stated that the Internet is used therein as a medium for connectivity between the seller and the buyer (i.e., the purchasing organization) (Col. 6, lines 22-25). There is no teaching or suggestion in Barnes that the Internet is a public business trading hub, as claimed by the present invention. For example, the Internet in Barnes does not aggregate business information. Applicants also note that the present invention clearly describes the Internet as a medium of connectivity to the public business trading hub, which further indicates that it is not equivalent to the public business trading hub (see specification, page 9, lines 20-21).

For all of the reasons stated above, applicants respectfully submit that Barnes fails to teach the public business trading hub feature recited in the independent claims of the present invention, let alone the use of an automated trusted agent in association with such a public business trading hub. Further, applicants submit that Meltzer does not overcome this deficiency of Barnes as applied to applicants' invention.

Meltzer describes an infrastructure for connecting businesses with customers, suppliers and trading partners. Under this infrastructure, companies exchange information using predefined machine-readable documents based on, for example, XML (Extensible Markup Language) and described by business interface definitions (BIDs) (see Col. 2, lines 32-54). The Office Action cited FIGs. 1 & 3 of Meltzer as teaching a transaction network consisting of multiple trading partners and a trading apparatus. Although these figures depict networked participants in a commercial transaction, a careful review of FIGs. 1 & 3 and the text of Meltzer reveal that it is silent as to whether the market participants are involved in a trading exchange that is public (i.e., publicly available), or whether the purchaser participants and supplier participants are in a many-to-many relationship. Further, the Internet in Meltzer is used as a mechanism for the participants to communicate (e.g., via XML-based documents) (see FIG. 1; Col. 9, lines 15-16 of Meltzer). A careful reading of Meltzer fails to uncover a teaching or suggestion that the Internet is utilized as a public business trading hub, as recited in the claims presented herewith. For example, the Internet in Meltzer does not function as a centralized component where business information is aggregated and shared.

Other aspects of Meltzer described in the Office Action include an attribute characterization and "bid" builder (FIG. 7 therein) utilizing product identifiers from Original Equipment Manufacturers (OEMs) (FIG. 8), and "bidding" by RFQs (FIG. 8) including market maker mechanisms (FIG. 11) (see Office Action, page 2, paragraph 4). Applicants respectfully submit that the Office Action does not clarify whether these features refer to applicants' independent claims, dependent claims, or some combination thereof. To the extent that these aspects of Meltzer are alleged to refer to the environment of the exchange recited by the present invention, applicants initially note that the usage of "bid" and "bidding" in the Office Action mischaracterizes the acronym BID, which is defined in Meltzer as a business interface definition.

A BID in Meltzer is a data structure that consists of logic structures and storage units arranged according to a formal definition of a document structure, such as an XML document (Col. 9, lines 59-62; see also FIG. 2). Applicants also note that a careful reading of Meltzer reveals that all occurrences of “BID” or “bid” refer to the BID data structure. Thus, applicants respectfully submit that the BID discussions in Meltzer do not describe bidding, *per se*, in the sense of making offers in a business transaction. More particularly, applicants submit that such BIDs do not describe or suggest market participants bidding on goods/services in a publicly available trading exchange, and thus do not teach or suggest the public business trading hub recited in the claims presented herewith.

Moreover, applicants respectfully submit that Meltzer’s market maker referenced in the Office Action is different from the public business trading hub claimed in the present invention. In Meltzer, the market maker stores specifications of participant interfaces which identify transactions supported by the interfaces, and the respective input and output documents of such transactions (Col. 6, lines 31-36). The market maker accepts documents sent by participants, and identifies and routes them to an appropriate participant who has registered to receive such documents as input (Col. 9, lines 37-41). This routing process is quite different from the public business trading hub recited in the claims presented herewith. For example, the registration restriction in Meltzer’s market maker prevents the documents from being public (*i.e.*, the documents are not publicly available), and thus, the market maker cannot be functioning as a public business trading hub.

Based on the foregoing, applicants respectfully submit that Meltzer, like Barnes, fails to teach or suggest the public business trading hub recited in the claims presented herewith. Further, applicants submit that Takriti does not overcome the deficiencies of Barnes and Meltzer, as applied to the present invention.

Takriti discloses a computer-based risk management system that schedules the generating units of an electric utility. This system includes forecasts of electricity demands, fuel prices and power trades with other utilities (see Abstract; Col. 4, lines 50-61). Applicants submit that the risk management system in Takriti stands in stark contrast to the present invention. Takriti’s

system is simply not a technique for facilitating an exchange, as claimed by the present invention. Rather, it is a decision-making tool to determine output levels from generation plants while minimizing costs and maximizing profits (see Abstract).

Further, Takriti does not teach or suggest utilizing a public business trading hub, as recited by the claims presented herewith. Instead, Takriti describes a process which supplies decision makers and plant managers of a utility company with information to run the electric system reliably (see Col. 7, lines 19-35). This information is provided to individuals in only one utility company, and thus is not public (i.e., publicly available) or disseminated through a hub to other companies participating in an exchange.

The Office Action stated that Takriti teaches a buy/sell model for a commodity and cited FIGs. 1A, 1B, 2, 3, 12, 14 & 15 and Col. 5, line 65 – Col. 10, line 3. Applicants respectfully submit that, to the extent these referenced portions of Takriti address such a model, they describe using mathematical modeling of power trades between utility companies as input into the risk management system in order to output operating schedules for generators (see Col. 8, lines 33-46). Applicants submit that this modeling considers projected power trades, and as such, does not describe or suggest the mechanics of an actual trade, nor does it teach or suggest utilizing a public business trading hub, as recited in the claims presented herewith.

For all the above reasons, applicants respectfully submit that independent claims 1, 24, 34, 57, 67-69 & 92 are patentable over the combination cited by the Office Action. Further, the dependent claims are believed patentable for the same reasons as the independent claims from which they directly or ultimately depend, as well as for their own additional characterizations. For example, applicants add herewith a new dependent claim 102, which further characterizes the one or more selected business functions performed via the automated trusted agent as comprising at least one of: (1) one or more pricing terms, (2) one or more contract terms, (3) one or more strategic relationships, (4) one or more business processes, and (5) one or more product schedules. The Office Action cited the Certificate Authority depicted in FIG. 3 of Barnes as teaching a third party trusted authority. Applicants respectfully submit that the function of the Certificate Authority in Barnes is quite different from any of the business functions performed

via the automated trusted agent, as recited in the claims presented herewith. In Barnes, the function of the Certificate Authority is to provide authentication certificates for servers sending messages in the procurement system. In contrast, the business functions performed via the automated trusted agent of the present invention, as amended herein, do not include authentication (see claim 102). Further, applicants submit that a trusted agent is not described or suggested in Meltzer or Takriti (see, e.g., FIG. 1 of Meltzer and FIG. 2 of Takriti). Thus, for the reasons stated above, applicants respectfully submit that dependent claim 102 patentably distinguishes over the applied art.

Finally, the Office Action states a 35 U.S.C. 101 rejection of claims 69 & 92 for “failing to define a functionality comprising a concrete and tangible result.” This rejection is respectfully, but most strenuously traversed. Both claims 69 & 92 recite as at least one program storage device readable by a machine, tangibly embodying at least one program of instructions executable by the machine to perform a method of facilitating the exchange of commodities. Claim 69 expressly recites utilizing a public business trading hub in the exchange of one or more commodities. Thus, this claim clearly recites a concrete and tangible result, i.e., the exchange of the one or more commodities. In accordance with claim 69, the method includes performing one or more selected business functions associated with the exchange of the one or more commodities via an automated trusted agent. Again, this is a concrete step in the process. Claim 92 recites a method of facilitating the exchange of commodities, which includes requesting by a first entity the obtaining of one or more commodities of a product, wherein the one or more commodities are obtained from one or more second entities via a public business trading hub. The method further includes using an automated trusted agent to interface between the first entity and the second entities, wherein one or more aspects associated with obtaining the one or more commodities are controlled by the automated trusted agent. This claim thus recites a result in that the one or more aspects associated with obtaining the one or more commodities are controlled by the automated trusted agent.

For all the above reasons, applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. 101 rejection of claims 69 & 92. However, should the Examiner continue to entertain reservations regarding these claims, the Examiner is requested to more particularly

explain the basis for the rejection since applicants' undersigned representative has not seen such a rejection by the U.S. Patent Office before regarding the wording of such program storage device claims.

Should the Examiner wish to discuss this case further with applicants' attorney, the Examiner is invited to telephone their below-listed representative.

Respectfully submitted,

  
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